

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK JOHN WEATHERWAX,

Defendant.

CR 14-03-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on December 12, 2016. Defendant admitted that he had violated the conditions of his supervised release by failing to report for outpatient chemical dependency treatment, by failing to report for urine testing, and by failing to report to his probation officer as directed. Judge Johnston found the admissions sufficient to establish the supervised release violations. Judge Johnston recommended that this Court revoke Defendant's supervised release and commit the Defendant to the custody of the United States Bureau of Prisons for a term of imprisonment of five months, with no supervised release to follow.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell*

Douglas Corp. Commodore Bus. Mach, Inc., 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted that he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 12 months, followed by 12 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of seven to 13 months. A sentence of five months in custody, followed by no supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 131) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 5th day of January, 2017.



Brian Morris
United States District Court Judge